

**NOT FOR PUBLICATION**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

CHAMBERS OF  
**SUSAN D. WIGENTON**  
UNITED STATES DISTRICT JUDGE

MARTIN LUTHER KING COURTHOUSE  
50 WALNUT ST.  
NEWARK, NJ 07101  
973-645-5903

May 18, 2018

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**LETTER OPINION FILED WITH THE CLERK OF THE COURT**

**Re: J. SUPOR & SON TRUCKING & RIGGING CO., INC. v. KENWORTH  
TRUCK CO., A DIVISION OF PACCAR INC, *et al.*  
Civil Action No. 2:17-cv-8057 (SDW)(CLW)**

Counsel:

Before this Court is Defendant Coopersburg Kenworth, Inc.'s ("Coopersburg") Motion to Dismiss Plaintiff's Complaint pursuant to Federal Rule of Civil Procedure ("Rule") 12(b)(6). Jurisdiction is proper pursuant to 28 U.S.C. § 1331. Venue is proper pursuant to 28 U.S.C. § 1391. This opinion is issued without oral argument pursuant to Rule 78. For the reasons stated herein, Coopersburg's Motion to Dismiss is **GRANTED**.

This Court assumes the parties' familiarity with the factual background and procedural history in this matter and thus will summarize only those facts relevant to the instant motion. Plaintiff, a New Jersey trucking corporation, seeks to recover \$193,440.00 in damages stemming from an August 30, 2013 truck purchase from Defendant Kenworth Truck Company ("Kenworth"). (Compl. ¶¶ 2, 8-9, ECF No. 1-1.) On September 3, 2013, upon delivery of the truck, Plaintiff signed Kenworth's Limited Liability Warranty Agreement (the "Warranty").<sup>1</sup>

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<sup>1</sup> Although the Warranty is not attached to the Complaint, it is specifically referenced therein. Therefore, this Court considers its provisions in deciding this motion. *T.J. McDermott Transp. Co. v. Cummins, Inc.*, No. 14-04209, 2015

(Warranty at 2 of 3, ECF No. 5-5.) The Warranty expressly reduced the time period for commencing any legal action arising from the purchase or use of the truck to “12 months from the accrual of the cause of action.” (*Id.*)

On August 28, 2017, Plaintiff filed a seven-count complaint against Defendants in the Superior Court of Hudson County, New Jersey. Defendant Paccar Inc. d/b/a Kenworth (“Paccar”) removed the case to this Court and filed a Motion to Dismiss on October 31, 2017. (ECF Nos. 1, 5.) On February 14, 2018, this Court granted Paccar’s motion, finding that even a liberal reading of when the Plaintiff’s cause of action accrued shows that the statute of limitations expired prior to the commencement of this action. (ECF Nos. 24-25.) On March 20, 2018, Defendant Coopersburg filed the instant motion, seeking dismissal on the same grounds. (ECF No. 30.) Plaintiff filed its opposition on April 23, 2018, and Coopersburg replied on April 30, 2018. (ECF Nos. 33-34.)

In considering a motion to dismiss under Rule 12(b)(6), a court must “accept all factual allegations as true, construe the complaint in the light most favorable to the plaintiff, and determine whether, under any reasonable reading of the complaint, the plaintiff may be entitled to relief.” *Phillips v. Cty. of Allegheny*, 515 F.3d 224, 231 (3d Cir. 2008) (quoting *Pinker v. Roche Holdings Ltd.*, 292 F.3d 361, 374 n.7 (3d Cir. 2002)) (internal quotation marks omitted).

Here, Coopersburg’s legal arguments are substantively the same as those in Paccar’s motion. Therefore, this Court’s adopts and applies its analysis from the February 14, 2018 Letter Opinion to the present motion. Accordingly, Plaintiff’s claims are time-barred, and Coopersburg’s Motion to Dismiss is **GRANTED**. An appropriate order follows.

/s/ Susan D. Wigenton  
**SUSAN D. WIGENTON, U.S.D.J.**

Orig: Clerk  
cc: Cathy L. Waldor, U.S.M.J.  
Parties

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U.S. Dist. LEXIS 29678, at \*9 (D.N.J. Mar. 11, 2015) (“In evaluating a plaintiff’s claims, a court may consider the allegations of the complaint as well as documents attached to or specifically referenced in the complaint.”).